

**CENTRAL ADMINISTRATAIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.15/08

Tuesday this the 30th day of September 2008

C O R A M :

**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Dr.K.S.SUGATHAN, ADMINISTRATAIVE MEMBER**

K.M.Abdul Samad,
S/o.T.A.Maideen,
Working as GDS MD,
Marampally P.O., Aluva.
Residing at Kottayil House,
Kuttamaserry, Thottumugham P.O., Aluva.Applicant

(By Advocate Mr.P.C.Sebastian)

Versus

1. The Assistant Superintendent of Post Offices,
Aluva Sub Division, Aluva – 683 101.
2. The Senior Superintendent of Post Offices,
Aluva Sub Division, Aluva – 683 101.
3. Union of India represented
by the Secretary to Government of India,
Ministry of Communications,
Department of Posts, New Delhi.
4. Aji P.K.,
Parakkattukudy House,
Maramppally P.O., Aluva.Respondents

(By Advocate Mr.P.A.Aziz,ACGSC [R1-3])

This application having been heard on 30th September 2008 the
Tribunal on the same day delivered the following :-



.2.

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure A-6 order dated 31.12.2007 issued by the 1st respondent, namely, the Assistant Superintendent of Post Offices, Aluva Sub Division appointing the 4th respondent, namely, Shri.Aji P.K as Gramin Dak Sevak Mail Deliverer (GDS MD for short), Marampally, EDSO.

2. The brief facts of the case are that consequent on the selection of the regular incumbent to Postman cadre, the post of GDS MD, Maramppally fell vacant with effect from 13.7.2006. The applicant was engaged to work against the post of GDS MD, Maramppally as a stop gap arrangement vide Annexure A-1 memo dated 17.10.2006. The said engagement was for a period from 17.8.2006 to 31.12.2006 or till provisional appointment to the post of GDS MD, Maramppally is made by the Assistant Superintendent of Post Offices, Aluva Sub Division, Aluva. As the regular appointment was not made before 31.12.2006, the engagement of the applicant was continued for some more time. Thereafter, the respondents issued Annexure A-2 notice dated 1.8.2007 inviting applications for recruitment for the aforesaid post of GDS MD, Marampally P.O on a regular basis. Six candidates including the applicant submitted their application and the Employment Exchange nominated nine candidates. All the candidates were duly informed by call



.3.

letters for record verification to be held on 5.10.2007. Eight candidates nominated by Employment Exchange and two candidates from the open quota attended the record verification on 5.10.2007. Aggrieved by the non receipt of the call letter for record verification held on 5.10.2007, the applicant approached this Tribunal earlier vide O.A.605/07 and as per the interim direction of this Tribunal, the 1st respondent called all the remaining candidates including the applicant for record verification on 15.10.2007. On the basis of the said record verification, the 4th respondent was appointed to the post of GDS MD, Marampally vide Annexure R-1 dated 5.1.2008. The contention of the applicant is that the selection to the post of GDS BPM/SPM should not have been made on the basis of the marks obtained in SSLC alone. He has relied upon the judgment of the Hon'ble Apex Court in the case of **Secretary (Health) Department of Health and Family Welfare Vs. Dr.Anitha Puri [(1996) (6) SCC 282]** according to which, when an advertisement stipulates a particular qualification as the minimum qualification for the post and further stipulates that preference should be given for higher qualification, the only meaning it conveys is that some additional weightage has to be given to the higher qualification and that by no stretch of imagination it can be construed to mean that a higher qualified persons automatically is entitled to be selected and appointed. He has also relied upon the judgment in the case of **Bibhudatta Mohanty Vs. Union of India [(2002) (4) SCC 16]** in this regard.



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3. The respondents in their reply statement has submitted that the basic minimum educational qualification for the post of GDS MD is a pass in the 8th standard but preference is given to those who are possessing qualification of matriculation (SSLC). According to them, this necessarily means that if large number of candidates possessing qualification of matriculation is available, then selection can be made from among them by assessing their comparative merit with reference to the marks secured in the SSLC examination and in the absence of any statutory embargo the employers has the inherent power to select a candidate possessing qualifications higher than the prescribed minimum qualification. They have also submitted that the 4th respondent was ranked 3rd as per the SSLC marks and Shri.Satheesh Subran and Shri.Ajithkumar who ranked 1st and 2nd respectively in the merit list had applied for the posts of GDS MD, Chovvara and Erumathala along with the post of GDS MD, Marampally. They were the meritorious candidates in the selection lists prepared for GDS MD, Chovvara and GDS MD, Erumathala and they accepted postings in those places which were convenient to them. Therefore, the candidate with the 3rd rank (4th respondent) was selected and given posting orders to the post of GDS MD, Marampally and he accepted it. They have also submitted that the 1st respondent has not prepared the merit list of candidates on the basis of 8th standard because there were no candidates who applied to the post of GDS MD, Marampally was having qualification lower than SSLC.



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4. We have heard Shri.P.C.Sebastian for the applicant and Shri.I.G.Manoharan on behalf of Shri.P.A.Aziz for the respondents 1-3. The fact of the matter is that the applicant was one of the candidates for the post of GDS MD, Marampally with the qualification of SSLC like all other candidates who had applied for the said post. Even though, according to the recruitment procedure, the minimum qualification for the post of GDS MD was a pass in 8th standard and only preference was to be given to those possessing the qualification of SSLC, there were no candidates with the said minimum qualification. All of them were SSLC passed. The respondents have, therefore, arranged the candidates in the order of their merit depending upon the marks they have obtained in the SSLC. Admittedly, the 4th respondent has secured more marks than the applicant in the SSLC examination. We, therefore, find that the Apex Court's judgments in Secretary (Health) Department of Health and Family Welfare Vs. Dr.Anitha Puri (supra) or in Bibhudatta Mohanty Vs. Union of India (supra) relied upon by the applicant have no application in this case.

5. In the above facts and circumstances of the case, we do not find any merit in this O.A. Accordingly, the same is dismissed. There shall be no order as to costs.

(Dated this the 30th day of September 2008)



K.S.SUGATHAN
ADMINISTRATIVE MEMBER

asp.



GEORGE PARACKEN
JUDICIAL MEMBER